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THE APPLICATION OF INCOME SUPPORT
OBLIGATIONS AND PENALTIES TO
REMOTE INDIGENOUS AUSTRALIANS,
2013–18

L FOWKES

Centre for
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The application of income support obligations and penalties to remote Indigenous Australians, 2013–18

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Abstract

This paper analyses the pattern of income support penalties applied to people participating in remote employment services from 1 July 2013 to 30 June 2018. Between 30 000 and 37 000 unemployed Australians were participating in these services at any given time during this period. More than 80% were identified as Indigenous. Although remote program participants were covered by the same social security rules as those in nonremote areas, the programs that they participated in imposed different obligations on them and included different incentives for providers. These differences were justified by government officials on the basis that they were tailored to the unique circumstances of remote communities. The paper describes how the combination of more stringent obligations and inadequate protections for vulnerable people have contributed to a substantial escalation in penalties. Despite this, there is no sign that the participation of remote Indigenous people in employment services is increasing. In fact, there is evidence that many are rejecting the program.

Keywords: income support, employment, Remote Jobs and Communities Program, Community Development Program, employment services, conditionality

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Acronyms

ANU	Australian National University
CAEPR	Centre For Aboriginal Economic Policy Research
CCA	Comprehensive Compliance Assessment
CDEP	Community Development Employment Projects
CDP	Community Development Programme
DHS	Australian Government Department of Human Services
JSA	Job Services Australia
OECD	Organisation for Economic Co-operation and Development
PM&C	Australian Government Department of the Prime Minister and Cabinet
RAE	remote area exemption
RJCP	Remote Jobs and Communities Program
TCF	Targeted Compliance Framework

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Introduction

This paper analyses the pattern of income support penalties applied to people participating in remote employment services from 1 July 2013 to 30 June 2018. During this period, between 30 000 and 37 000 unemployed Australians were participating in these services at any given time. More than 80% of participants were identified as Indigenous.¹ Although remote program participants were covered by the same social security rules as those in nonremote areas, the programs that they participated in imposed different obligations on them and included different incentives for providers. These differences were justified by government officials on the basis that they were tailored to the unique circumstances of remote communities.

The separation of remote employment services from mainstream programs from mid-2013 has made it possible to use publicly available information to compare income support penalties between remote and nonremote areas, and to track the impact of program changes during the study period (see also Fowkes 2016, Fowkes & Sanders 2016). Because of the number of Indigenous jobseekers living in remote areas, trends in remote income support penalties show up in the national distribution of penalties between Indigenous and non-Indigenous unemployed people. The picture that has emerged from analysis of recent trends in penalties is stark. Over five years from 1 July 2013 to 30 June 2018, the small group of unemployed people living in remote areas – comprising fewer than one-twentieth of all unemployment benefit recipients – received more penalties than all of their nonremote counterparts combined. More than 90% of remote participants who were penalised were identified as Indigenous, driving the level of penalties applied to Indigenous people to an unprecedented high. This paper uses publicly available data to describe these patterns and to provide insights into their causes and effects, updating the findings of two earlier CAEPR Working Papers (Fowkes 2016, Fowkes & Sanders 2016).

The paper is arranged in six sections. Section 1 provides an overview of conditionality as applied to working-age income support payments in Australia, and the particular issues that have emerged in the application of conditional payments to Indigenous Australians living in remote areas. Section 2 outlines the employment program and compliance arrangements in place during the period covered in the paper (1 July 2013 – 30 June 2018). Analysis of the number and pattern of penalties is set out in Section 3. Section 4 considers claims that there have been changes in attitude and behaviour as a result of conditions applied to payments. Section 5 comments on recent changes in the legal framework for penalties. Section 6 provides some concluding reflections.

1 ‘Activating’ jobseekers through income support conditionality

1.1 Development and implementation of welfare conditionality

From the establishment of unemployment benefits in Australia in 1945, receipt has been conditional on availability for, and willingness to accept, suitable work (the ‘work test’). In Australia, as in other countries of the Organisation for Economic Co-operation and Development (OECD), the obligations of working-age income support recipients have been extended and intensified over the past three decades as governments have shifted their focus from attempting to address unemployment directly to ‘activating’ the unemployed (Harris 2001, Martin 2015). In 1991, the work test became an ‘activity test’, allowing the imposition of obligations designed to both ‘hassle’ and ‘help’ unemployed people to find work (Mead 1997, Dean 1998, Carney & Ramia 1999). Under the activity test, most unemployed people (‘jobseekers’) are required to conduct a specified number of job searches each month, to attend regular appointments with an employment service provider, to engage in work preparation activities and, in some cases, to participate in Work for the Dole² (Davidson & Whiteford 2012). The intensification of the obligations of income support recipients has coincided with the expansion of the range of income support recipients subject to activity testing. During the past 25 years, many more partnered and sole parents, people with disabilities, and older unemployed people have become subject to income support obligations (Davidson & Whiteford 2012:39–40, OECD 2012).

The move to ‘activation’ as the basis for unemployment assistance has been accompanied by a transformation in administration. The rights and obligations of income support recipients are now mediated through a complex set of contractual relationships and nonlegal ‘agreements’ between policy agencies, service providers and unemployed individuals (Carney & Ramia 1999). Income support payments are administered by the Australian Government Department of Human Services (DHS),³ which operates under service agreements with policy departments, particularly the Australian Government Department of Jobs and Small Business⁴ (Davidson & Whiteford 2012). Provision of employment services has been fully privatised. Services are now delivered by a range of nonprofit and

for-profit providers that are bound by detailed funding agreements and guidelines, while competing within ‘quasi-market’ arrangements (Considine et al. 2011). Jobseekers are affected by, but are not parties to, these service agreements and contractual arrangements. Their obligations are set out in individual agreements with employment service providers (‘job plans’). Although couched in contractual language, these agreements are ultimately one-sided (Carney & Ramia 1999). An unemployed person who fails to enter into an agreement can have their benefits suspended or withdrawn, while many of the obligations contained in ‘individual’ plans are prescribed by the government through its contracts with providers (Australian Government 2018:s.3.2.8.30). Individuals have the ability to complain about a provider to the government ‘purchaser’ of the services, but their capacity to challenge the appropriateness or equity of obligations imposed is highly constrained (Carney & Ramia 1999).

Unlike many of the obligations included in job plans, arrangements for application of penalties are set out in legislation (see Table A in Appendix). The *Social Security (Administration) Act 1999* sets out the circumstances in which payments may be suspended, reduced or cancelled; the level of penalty to be applied; and the procedural and appeal rights of those affected. Other matters, such as what types of ‘excuse’ might be accepted for nonattendance, are set out in regulations. These compliance arrangements have been the subject of frequent change over the past two decades, including major restructuring in 1999, 2006, 2009 and 2017 (Davidson & Whiteford 2012:35–38). The penalty regime, once a relatively marginal feature of the social security system, is now seen as a critical tool for moving unemployed people off payments and into work (OECD 2001, Martin 2015). Trends in the application of social security penalties are also a measurable and visible sign of the ‘hard edge’ of activation, and have been used by welfare advocates to challenge government policies (Eardley et al. 2005, Davidson & Whiteford 2012). Because of the potential political sensitivity of penalties, the enthusiasm of elected officials to punish those ‘wilfully’ flouting the system has been tempered by efforts to show that those considered ‘vulnerable’ are being protected (Disney et al. 2010, Davidson & Whiteford 2012:35–38, Australian Government 2018:s.3.1.14). These efforts to balance punishment and protection have frequently resulted in changes to the level of discretion available to frontline workers (Disney et al. 2010, Considine et al. 2014). Increased availability of frontline discretion has not, however, always led to

reduced penalties (Considine et al. 2014). Wider trends, such as declining skills of frontline workers, increased caseloads, competitive pressures and converging organisational strategies, have been associated with increasing use of sanctions by frontline workers, regardless of the compliance regime (Considine et al. 2014, Lewis et al. 2016).

1.2 Application of ‘mainstream’ income support conditions to remote Indigenous Australians

Indigenous Australians have been subject to the same legislative framework for provision of unemployment benefits as other Australians since 1966. Even so, particularly in remote areas, there have been considerable differences in the practical application of these rules to them. Until the mid-1970s, government officials considered many Indigenous people living on missions and government settlements ineligible for unemployment benefits because they were judged, by virtue of where they lived, to be ‘unavailable for work’ – therefore unable to meet the work test (Sanders 1985). The Whitlam government reversed this policy, but officials remained concerned about how they might apply the work test in places where little or no suitable work was likely to become available (Sanders 2012). One early response was the development of the Community Development Employment Projects (CDEP) scheme, which allowed some Indigenous people to work part-time for wages on community projects instead of accessing the mainstream income support system (Sanders 2012, Jordan 2016). The CDEP scheme was established as a pilot in 1977. By 1997, it employed more than 20 000 Indigenous people in remote communities (Antonios 1997:8). As the obligations of unemployment benefit recipients intensified through the 1990s, government officials also developed and formalised a practice of applying exemptions from the activity test to those considered to have no practical access to the labour market or to employment programs (remote area exemptions [RAEs]) (Sanders 1999). Until the mid-2000s, the combined effect of the availability of CDEP and RAEs limited the effects of the intensification of income support conditionality on Indigenous people in remote areas. But the resurgence of paternalism and the move away from self-determination as a ‘dominant principle’ in Indigenous affairs marked the end of these ‘adaptations’ (Sanders 2012). By 2009, all RAEs had been removed, and CDEP wages had ended for all new entrants to the scheme. Indigenous Australians in remote Australia were drawn into the mainstream ‘active’ systems of

employment assistance and conditional payments. Moreover, remote Indigenous communities became the target of new experiments in welfare conditionality through new types of restrictions on spending and access to cash (Cox 2011, Klein & Razi 2018).

Even before the removal of RAEs and the closure of CDEP, there was evidence that Indigenous people were more likely to receive income support penalties than others (Sanders 1999, Eardley et al. 2005, Disney et al. 2010). In 2009, as these adaptations were closed off, a new Job Seeker Compliance Framework was implemented through the *Social Security Legislation Amendment (Employment Services Reform) Act 2009*. Although some amendments were made to this framework over time, its overall structure remained in place until 30 June 2018 (see Section 5). The 2009 Job Seeker Compliance Framework was developed in the context of the inclusion of more disadvantaged groups in employment programs (Disney et al. 2010). It was intended to give contracted providers the flexibility to engage unemployed people using nonpunitive approaches, and to protect those identified as vulnerable from being penalised for matters outside their control (Disney et al. 2010) (see further Section 2.3). But the 2009 framework did not specifically address the situation of remote Indigenous Australians.

In 2010, the independent review of the Job Seeker Compliance Framework raised concerns about the likely effectiveness of the framework’s protections for remote Indigenous people (Disney et al. 2010:71–74). Identification of ‘vulnerabilities’ relied heavily on the willingness of jobseekers to disclose issues to DHS officials and their ability to provide documentation to support their claims. But access to health and other services in remote communities was limited, and DHS reliance on phone interviews undermined the quality of assessments (Disney et al. 2010:73). The review recommended that the government establish a specific review process to examine and address the application of the framework in remote communities, but this did not occur.

A 2012 government evaluation of the experience of Indigenous jobseekers in employment services appeared to confirm that protections were not working (DEEWR 2012). It noted that remote Indigenous Australians were *less* likely than others to be assessed by DHS officials as having significant participation obstacles, despite the prevalence of health and other challenges to participation known to exist in this population (DEEWR 2012). Overall engagement with

the system by Indigenous Australians was poor. While identifying these limitations, the report deferred to the review of remote employment services arrangements that was then under way to come up with a better approach (DEEWR 2012:33–34). It was this review that led to the establishment of a separate remote employment program from 1 July 2013.

2 Job Seeker Compliance Framework and remote program obligations 2013–18

2.1 Remote Jobs and Communities Program

On 1 July 2013, the Remote Jobs and Communities Program (RJCP) was established to deliver employment services to all activity-tested income support recipients across remote Australia (see Figure 1). The program initially had around 36 000 participants, of whom 83% were identified as Indigenous. This represented around 28% of the Indigenous population in employment services Australia-wide (Forrest 2014:150). RJCP had many similarities to Job Services Australia (JSA) – the principal labour market program then operating in nonremote areas. As in JSA, RJCP participants had to attend mandatory case management appointments and enter into individualised job plans. RJCP providers were required to include in job plans activities that helped prepare clients for work. However, the program guidelines for RJCP set ‘expected’ weekly hours of activity for participants that were higher than those expected in JSA and extended over more of the year (Fowkes & Sanders 2016:6). For example, those in RJCP with full-time work capacity were expected to undertake activities for around 40 hours per fortnight throughout the year, whereas annual activity obligations for most JSA participants started after a year, lasted for six months in each year and generally involved no more than 30 hours per fortnight (Fowkes & Sanders 2016). The imposition of more onerous activity requirements in remote areas appeared to have its basis in a recognition that many people would not be able to find work. The government stated its ‘belief’ that – in the absence of work – remote unemployed people should be ‘participating in meaningful activities that contribute to the strength and sustainability of their community’ (Macklin et al. 2012:4). But providers

still had considerable flexibility in the type of activity to which they could refer people, and in the intensity of monitoring and enforcement of obligations, so the initial effect of higher hours on income support penalties was (relative to later developments) somewhat muted (Fowkes & Sanders 2016).

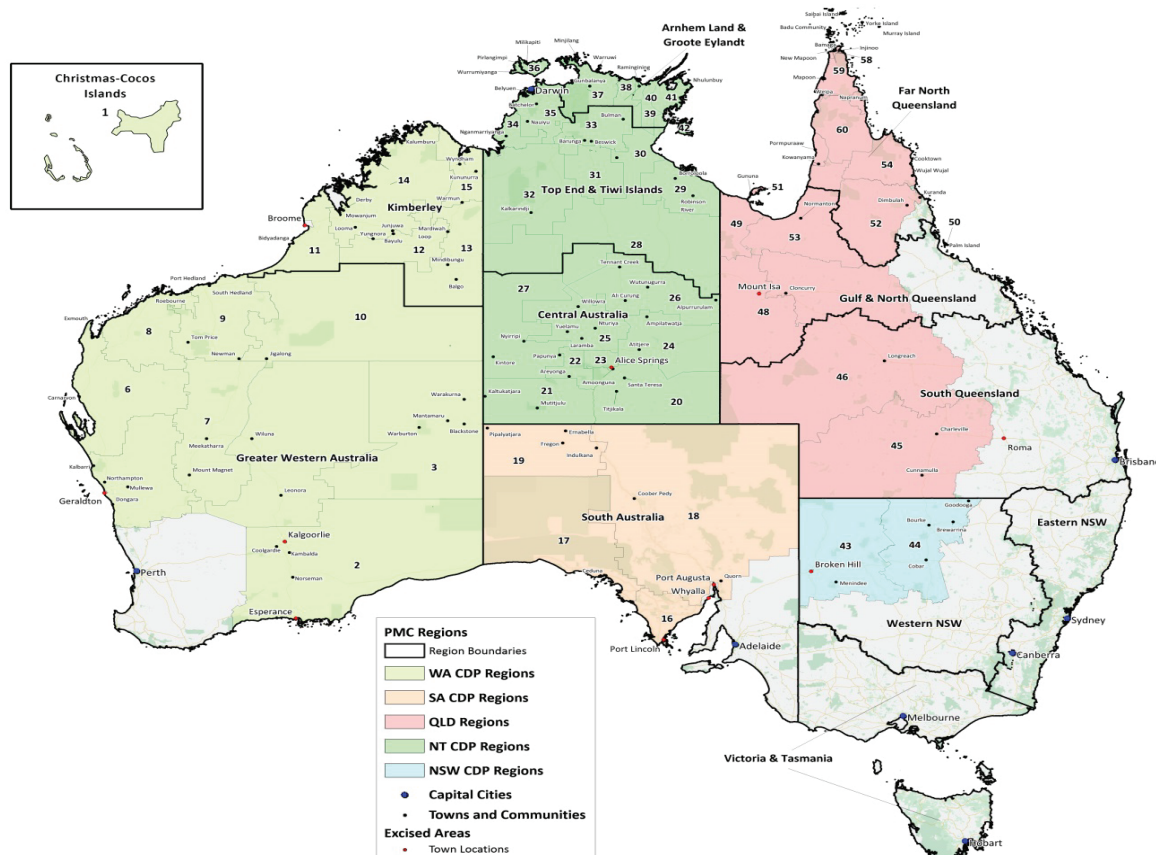
2.2 Work for the Dole and the Community Development Program

A change of government in September 2013 led to further intensification of obligations under the remote scheme. Policy development and contract management became the responsibility of the newly formed Indigenous Affairs Group in the Australian Government Department of the Prime Minister and Cabinet (PM&C). In 2014, the Australian Minister for Indigenous Affairs, Northern Territory Senator Nigel Scullion, directed that more of those in RJCP be placed in ‘structured activities’ – where hours were continually monitored and supervised, and where nonattendance had to be promptly reported. Then, from 1 July 2015, the government made a more substantial set of changes to the remote program, the centrepiece of which was to require participants with full-time work capacity to attend Work for the Dole Monday to Friday throughout the year (see Table 1). The program was also renamed the Community Development Program (CDP). This change coincided with the replacement of JSA with the jobactive program in nonremote areas.⁵

To ensure that CDP providers applied attendance rules strictly, service fees associated with jobseekers who had Work for the Dole obligations were linked to their attendance. Providers could only receive payment for those who failed to attend Work for the Dole where the jobseeker had provided an excuse or where the provider recommended to DHS that a penalty be applied to them. As a result, reporting of noncompliance under the remote scheme dramatically increased (Fowkes 2016).

2.3 Operation of the Job Seeker Compliance Framework

Despite some attempts to establish separate rules for remote areas,⁶ participants in remote employment services remained under the same compliance framework as their nonremote counterparts until 1 July 2018. Collectively, these rules were known as the Job Seeker Compliance Framework, the key elements of which had been established in 2009. Within this framework, the monitoring of obligations

Figure 1 Coverage of remote employment services, 2013–present

Source: PM&C (2018a)

was shared by employment services providers and DHS, but only DHS could determine that a penalty should apply. Where a jobseeker failed to comply with the obligations in their job plan (e.g. by failing to attend Work for the Dole), providers were required to decide whether the person had a ‘reasonable excuse’ and, if no reasonable excuse existed, could submit a ‘participation report’ recommending to DHS that a penalty be applied. According to government guidelines, the recommendation ‘depends on what the provider thinks is the most appropriate strategy to re-engage the jobseeker’ (Department of Employment 2016). Upon receiving the provider report, DHS investigated the ‘failure’ and applied a penalty if it determined that the relevant conditions for its application had been met. Both providers and DHS were required to consider the vulnerabilities of jobseekers (indicated by a ‘vulnerability indicator’ on the jobseeker record) in assessing the appropriateness of penalties. Vulnerabilities could include factors such as cognitive impairment, mental or other health problems, personal crisis, homelessness,

and lack of understanding of program requirements. However, no special training or qualifications were required of frontline staff considering the impact of these vulnerabilities on compliance.

The Job Seeker Compliance Framework contained two types of penalty: short penalties, which meant the loss of one-tenth of fortnightly income support; and penalties for ‘serious failures’, which meant loss of eight weeks of payment. Serious penalties could be waived in cases of financial hardship or if participants agreed to participate in a ‘compliance activity’ (such as Work for the Dole), usually 25 hours per week. In addition to penalties, the framework allowed for payments to be suspended until a participant re-engaged with the provider or DHS, at which point payments were backpaid.⁷

Short penalties usually applied when a person had failed to attend an appointment or an activity. They could also be applied when a jobseeker refused to enter into a job plan. Serious (eight-week) failures could be applied in cases of work refusal or ‘voluntary unemployment’. They

Table 1 Comparison of obligations and reporting arrangements: jobactive and Community Development Program

Obligation	Mutual obligation requirements compared	
	Jobactive	Community Development Program ^a
Appointments	Monthly	Monthly
Job search	Generally 20 per month, but in the most disadvantaged stream this depends on capacity.	Determined by provider. Minimum 1 per month, maximum 20 per month.
Duration of requirement	<p>'Annual activity requirement' starts 12 months after starting in the program.</p> <p>The requirement is for 6 continuous months of activity in each year of unemployment.</p>	<p>Work for the Dole starts immediately for those with mandatory obligation (see below) and continues until the participant leaves income support or their circumstances change. Providers can give participants up to 6 weeks time off in any 12-month period (i.e. minimum requirement of 46 weeks per year).</p>
Hours of work required (people with full-time work capacity)	<p>Aged under 30 years: 50 hours per fortnight for 26 weeks each year = <i>650 hours per year</i>.</p> <p>Aged 30–59: 30 hours per fortnight for 26 weeks each year = <i>390 hours per year</i> (increased to 650 hours per year for those aged 30–49 from September 2018).</p> <p>In addition, job search and appointments.</p>	<p>Aged 18–49: 25 hours per week in Work for the Dole activities (at least <i>1150 hours per year</i>).</p> <p>Aged 50–54: 25 hours per week mutual obligation activities (at least <i>1150 hours per year</i>).</p> <p>Aged 55+: 30 hours per fortnight mutual obligation activities (at least <i>690 hours per year</i>).</p> <p>In addition, job search and appointments.</p>
Hours of work required (people with part-time work capacity; i.e. principal carers, people with disabilities)	<p>Aged under 30 years: <i>390 hours per year</i> over 26 weeks = 30 hours per fortnight over 26 weeks.</p> <p>Aged 30–59: <i>200 hours per year</i> over 26 weeks (15–16 hours per fortnight) (increased for those aged 30–49 years from September 2018).</p> <p>(Or up to minimum assessed work capacity.)</p> <p>In addition, appointments and job search where appropriate.</p>	<p>At least 30 hours per fortnight of activities = approximately <i>690 hours per year</i>, or up to minimum assessed work capacity.</p> <p>In addition, appointments and job search where appropriate.</p>

Table 1 *continued*

Obligation	Mutual obligation requirements compared	
	Jobactive	Community Development Program ^a
Types of activity	<p>The annual activity requirement is able to be met through:</p> <ul style="list-style-type: none"> • Work for the Dole • National Work Experience Programme (up to 4 weeks) • voluntary work • part-time work • study or training at Cert 3 level or higher • defence reserves • other approved government or nongovernment programs • drug and alcohol treatment (from 1 January 2018). <p>With some exceptions, activities cannot be conducted on private property or in commercial enterprises. They cannot involve work that would have been done by a paid worker had the Work for the Dole activity not taken place, or reduce hours of existing paid workers, or perform tasks done by workers made redundant in the last 12 months.</p>	<p>Work for the Dole is compulsory for all participants aged 18–49 with full-time capacity.</p> <p>Hours in part-time work can be counted towards the 25-hour per week requirement. Training can only be counted if it is necessary for the Work for the Dole project or is linked to a job.</p> <p>The guidelines allow for most of the 25 hours to be spent in a service (e.g. rehabilitation) ‘where there is a clear need’, but in these cases records of attendance must still be kept.</p> <p>Participants with part-time work capacity or 50 years+ can participate in a range of activities as per jobactive.</p>
Scheduling	Flexible	Activities must be scheduled so that they ‘set a daily routine for jobseekers across a five-day, Monday-to-Friday week’. Providers may put forward a proposal for different scheduling under ‘special circumstances’.
Monitoring and reporting	<p>In Work for the Dole, attendance for each day must be recorded, and submitted within 10 days.</p> <p>For other activities, attendance is recorded monthly.</p>	<p>Work for the Dole: Attendance must be recorded for each day and entered into the IT system. Monthly payments are based on records in this system.</p> <p>Payments are not made where a person has not attended Work for the Dole and the provider has not reported noncompliance to DHS.</p>

DHS = Australian Government Department of Human Services

a Before 1 March 2019

could also be applied when a jobseeker was found to be 'persistently noncompliant' with program requirements. Following the application of three short penalties in a six-month period, jobseekers were automatically referred to DHS for consideration as to whether a persistent noncompliance penalty should be applied. Before making this decision, specialist DHS workers conducted Comprehensive Compliance Assessments (CCAs) to determine whether the previous 'failures' had been committed 'intentionally, recklessly or negligently'.⁸ DHS officers could refer jobseekers for a work capacity assessment, suggest additional support that should be provided, or decline to apply a serious failure on the basis that noncompliance was not within the jobseeker's control. But, as the independent panel noted in 2010, the process was heavily reliant on the availability of evidence about jobseeker vulnerabilities and the quality of DHS assessment processes (Disney et al. 2010).

By 2016, it was clear that, despite the various checks and protections in the Job Seeker Compliance Framework, Indigenous people in remote areas were receiving a disproportionate number of penalties (Fowkes 2016, Fowkes & Sanders 2016). Government officials defended the remote program against critics by referring to the availability of waivers for serious failures and legal protections for vulnerable people (e.g. Browning 2016, PM&C 2017b:8–10). In addition, they argued, the application of penalties was essential to putting an end to 'passive welfare'. According to the Indigenous Affairs Minister:

... a breach isn't there to be mean, a breach is there to create an incentive to actually turn up to an activity and we can put purpose in your life. (Nigel Scullion in Browning 2016)

3 Penalties applied to remote employment program participants, 1 July 2013 – 30 June 2018

3.1 Available information about income support penalties

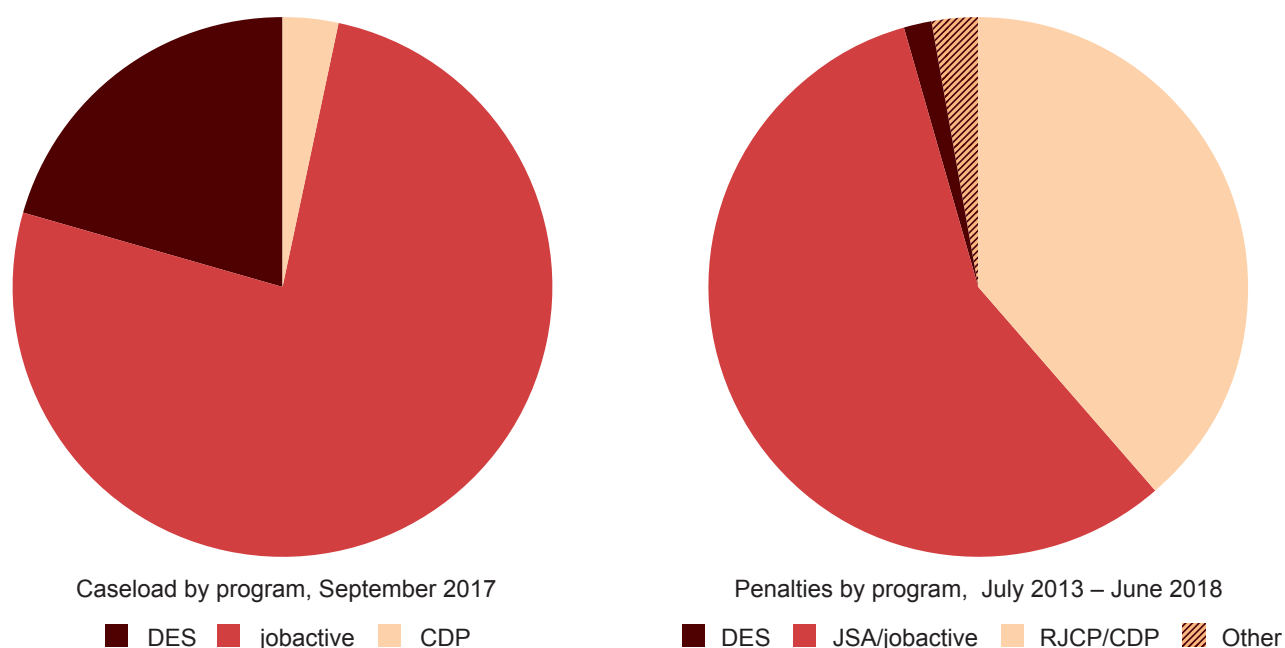
Since March 2008, the Australian Government has published quarterly information about the number of penalties applied to income support recipients

by Indigenous status and, from September 2009, by employment services program.⁹ The data have a number of limitations: data are presented separately by Indigenous status and by program, but there is no breakdown *within* these categories (e.g. number of Indigenous people penalised within a program); numbers of penalties are reported rather than numbers of individuals penalised; and information is not provided about the number of jobseekers who participated in each program during each quarter, making it difficult to calculate a penalty 'rate' (cf. Sanders 1999, Eardley et al. 2005). This paper attempts to overcome these limitations by using separate 'point in time' caseload data for different programs, allowing an (imperfect) perspective on relative breaching rates. In addition, regular quarterly jobseeker compliance data have been supplemented by government information that has emerged from other sources, particularly responses to questions asked during Senate Estimates. This paper also draws on surveys, interviews and observations undertaken in the course of a larger study of the delivery of remote employment services to provide insights into the factors influencing penalties.

3.2 Number and pattern of penalties applied to remote jobseekers compared

In September 2017, there were 32 629 participants in CDP, of whom 82.5% identified as Indigenous.¹⁰ There were, at the same time, 714 463 participants in the nonremote jobactive program, of whom 10.5% identified as Indigenous.¹¹ Another 190 589 people (5.7% Indigenous) in nonremote areas participated in specialist Disability Employment Services.¹² While the sizes of these programs fluctuated over time, the remote program accounted for less than one-twentieth (<5%) of activity-tested jobseekers over the period covered by this analysis – 1 July 2013 to 30 June 2018 – but accounted for 38.8% of all penalties (Figure 2).

The rate and pattern of penalties changed significantly over time (Figure 3). Participants in the first iteration of the remote program – RJCP (1 July 2013 – 30 June 2015) – received 9.2% of all financial penalties. Under CDP, this increased to 53.3% of all financial penalties from 1 July 2015 to 30 June 2018. From the start of CDP to June 2018, CDP participants received more than half a million penalties (559 298), pushing penalties to a historical high nationally.¹³

Figure 2 Comparison of caseload and penalties by program

CDP = Community Development Program; DES = Disability Employment Services; JSA = Job Services Australia; RJCP = Remote Jobs and Communities Program

Sources: Department of Jobs and Small Business, Senate Finance and Public Administration Legislation Committee – see endnotes 10–12

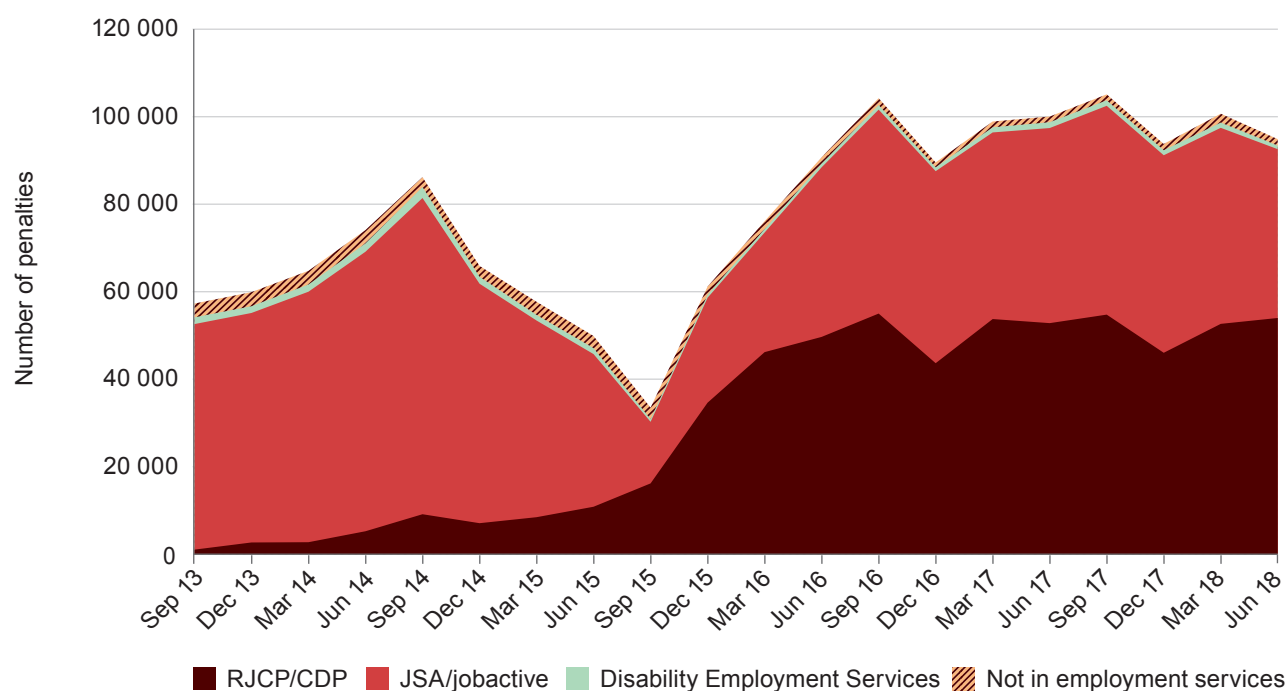
For simplicity, most of the analysis in this paper focuses on comparison of penalties applied to participants in the two mainstream nonspecialist labour market programs (JSA and jobactive) with those applied to participants in the remote programs (RJCP and CDP). Together, these four programs accounted for 95.7% of all income support penalties applied during the included period.

As shown at Figure 3, penalties applied under the JSA program sharply declined after September 2014 and increased again following the implementation of jobactive (from the quarter ending September 2015). The disruption caused by the transition from JSA to jobactive, which involved a change in providers and transfer of jobseekers, caused a temporary decline in penalties. The change from RJCP to CDP was given effect through an amendment to existing contracts rather than a new program, so there was no similar disruption to penalties.¹⁴

In addition to the temporary reduction in penalties associated with the move from JSA to jobactive, a longer-term decline occurred in mainstream penalties because of a change in compliance procedures applied to those who failed to attend appointments.¹⁵ From

July 2014, unemployed people who failed to attend provider appointments had their payments suspended in the first instance rather than having a penalty applied.¹⁶ Those with mobile phones were notified immediately of the suspension by text, and could restart payments by engaging directly with their provider (rather than DHS). This change substantially reduced the number of ‘appointment related’ failures, and, as a result, reduced numbers of ‘persistent noncompliance’ penalties (Figure 4). Appointment-related failures also dropped in remote areas in response to the change (see Figure 4), but the impact of this reduction was small relative to the dramatic escalation in ‘no show no pay’ penalties applied for nonattendance at Work for the Dole from 2015. Appointment-related failures accounted for a smaller proportion of penalties under the remote program, even before the introduction of CDP (Figure 4). It might have been possible to implement a similar ‘suspend first’ arrangement for Work for the Dole at the time of the change to appointment arrangements, but this did not occur. Penalties, rather than suspensions, remained the primary approach to those who failed to attend Work for the Dole, so the benefits to remote unemployed people of the 2014 change were limited.

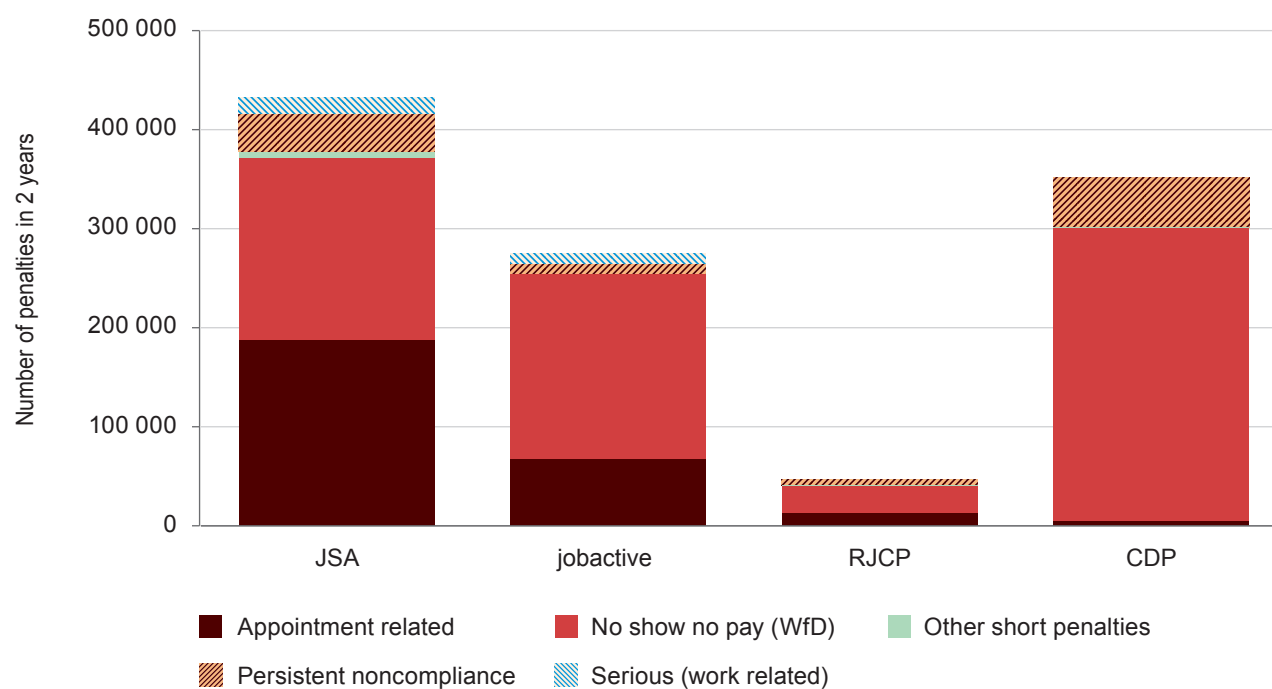
Figure 3 Number of quarterly financial penalties by program, quarters ending September 2013 – June 2018



CDP = Community Development Program; JSA = Job Services Australia; RJCP = Remote Jobs and Communities Program

Source: Department of Jobs and Small Business jobseeker compliance data, various dates

Figure 4 Number of penalties by category, 1 July 2013 – 1 July 2017



CDP = Community Development Program; JSA = Job Services Australia; RJCP = Remote Jobs and Communities Program; WfD = Work for the Dole

Note: CDP replaced RJCP on 1 July 2015. Jobactive replaced JSA on 1 July 2015.

Source: Department of Jobs and Small Business jobseeker compliance data, various dates

3.3 No show no pay penalties: the effect of Work for the Dole

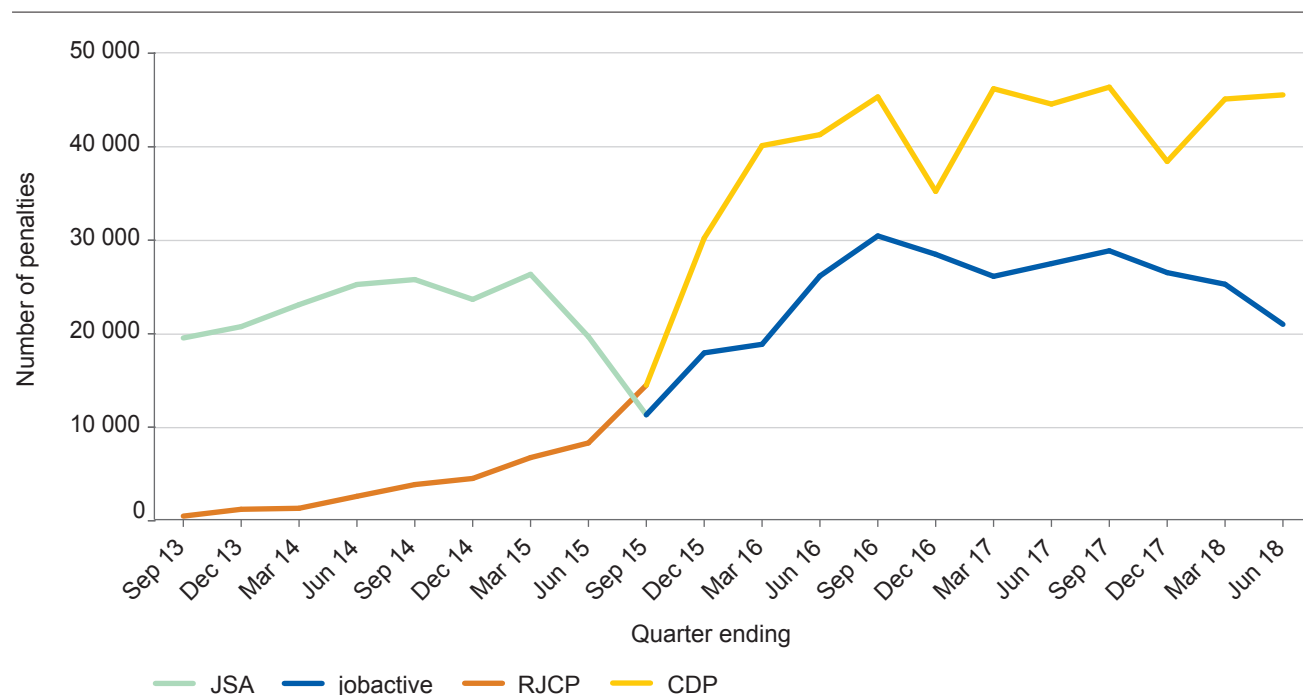
Of the 606 498 penalties applied to remote program participants between 1 July 2013 and June 2018, 499 690 (82.4%) were applied for nonattendance at an activity (no show no pay penalties). The vast majority of these penalties (94.4%) were applied after 1 July 2015, following the introduction of more stringent Work for the Dole arrangements under CDP. In every subsequent quarter, remote program participants received more no show no pay penalties than their nonremote counterparts in jobactive, despite the CDP caseload being a fraction (one-twentieth) of the size (Figure 5).

There was an increased emphasis on Work for the Dole in nonremote areas under jobactive, but the specific arrangements were quite different from those in CDP. Nonremote jobseekers could only be referred to Work for the Dole after a year of employment assistance rather than straight away, as under CDP. Nearly 80% of jobactive jobseekers left the program before they reached this point.¹⁷ Most remaining jobactive participants chose to meet their obligation through something other than Work for the Dole. In the year ending August 2017, for example, only 26.5% of jobactive participants with an annual activity

requirement were placed in Work for the Dole; most of the rest chose part-time work or training.¹⁸ In contrast, at 29 September 2017, more than 75% of all CDP participants were in Work for the Dole.¹⁹ Under CDP guidelines, participants aged 18–49 had no option but to fulfil their obligations through Work for the Dole, while many older participants who were entitled to choose other options were placed in Work for the Dole for lack of practical alternatives.

One of the implications of higher rates of placement of remote unemployed people in Work for the Dole was that this group was subjected to closer surveillance. Only Work for the Dole required daily submission of attendance reports by providers – other activities were monitored monthly (see Table 1). In addition, only CDP participants were made to work their activity hours over five days in each week. They had more ‘opportunities to fail’. Within the Job Seeker Compliance Framework, providers in both programs could decide whether or not to recommend a penalty, but only CDP providers were financially penalised for using this discretion. In 2016, 111 086 jobactive participants took part in Work for the Dole, attracting 103 533 no show no pay penalties in that year – an average of about 0.9 penalties per participant.²⁰ An estimated 30 000 CDP participants participated in Work for the Dole in

Figure 5 Comparison of the number of no show no pay penalties, quarters ending September 2013 – June 2018



CDP = Community Development Program; JSA = Job Services Australia; RJCP = Remote Jobs and Communities Program

Source: Department of Jobs and Small Business jobseeker compliance data, various dates

that year, yet they received 161 507 no show no pay penalties – an average of more than 5 penalties per participant.²¹ The combination of more hours, less flexibility and greater surveillance meant that a greater proportion of remote participants became subject to Work for the Dole-related penalties, and they received them around 5.5 times more often.

3.4 Comprehensive Compliance Assessments and penalties for persistent noncompliance

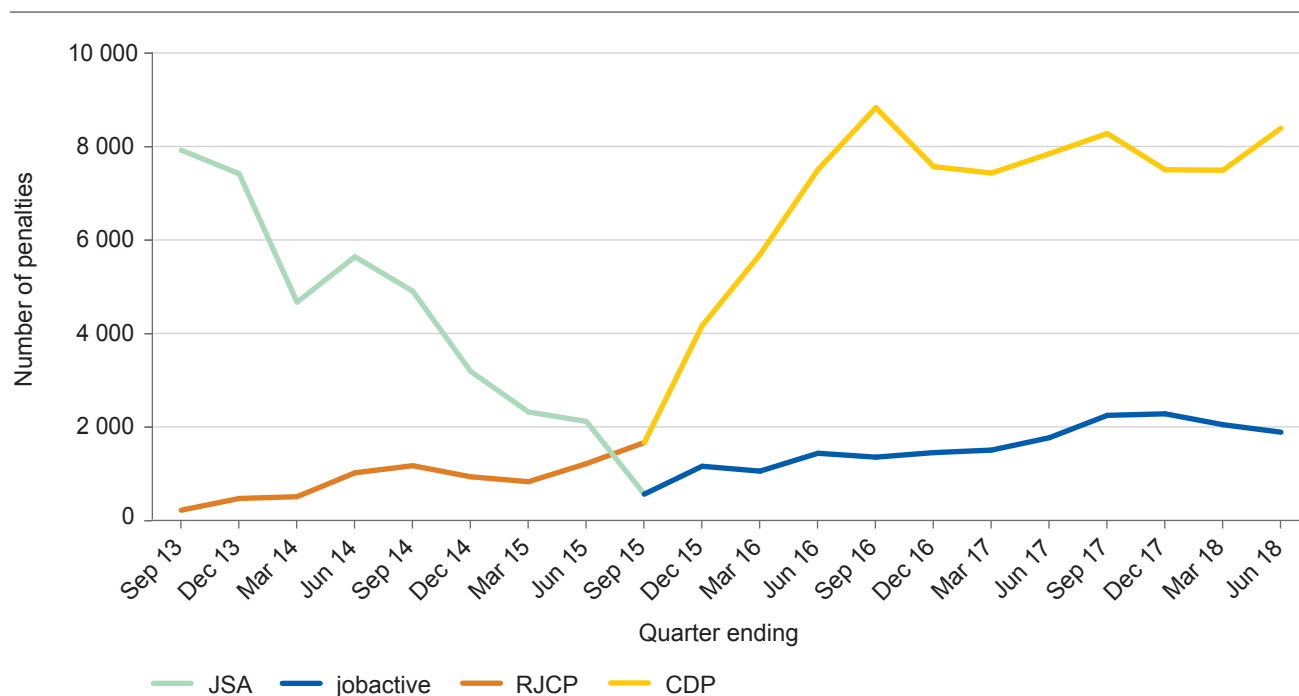
One of the consequences of a higher rate of short penalties applied to remote participants was their increased exposure to serious penalties for persistent noncompliance. These penalties meant up to eight weeks without income support, although most people opted to access a waiver by starting a compliance activity before the eight-week period ended.²² Between 1 July 2015 and 30 June 2018, CDP participants received 82 139 persistent noncompliance penalties, nearly 4.5 times the number applied to participants in the much larger jobactive program (18 531) (Figure 6). The remote program's share of these penalties rose from a quarterly average of 17% under RJCP to 80% under CDP.

Because referral for determination of a persistent noncompliance penalty was automatic following three short penalties, the increase in no show no pay penalties flowed into an increase in referrals to DHS to consider whether a serious penalty should apply (Figure 7). However, as can be seen in Figure 7, the increase in penalties applied exceeded the increase in referrals. In other words, having being referred, remote participants were more likely to be found by DHS to be 'wilfully' and 'persistently' noncompliant.

Adverse CCA outcome rates between CDP participants and others are compared in Figure 8. Whereas 53.8% of CDP participants referred for a CCA were assessed by DHS as intentionally, wilfully or negligently noncompliant, only 24.4% of participants in other programs received this result (Figure 8). Similarly, at a national level, Indigenous jobseekers were much more likely to receive a penalty following an assessment of their ability to comply.

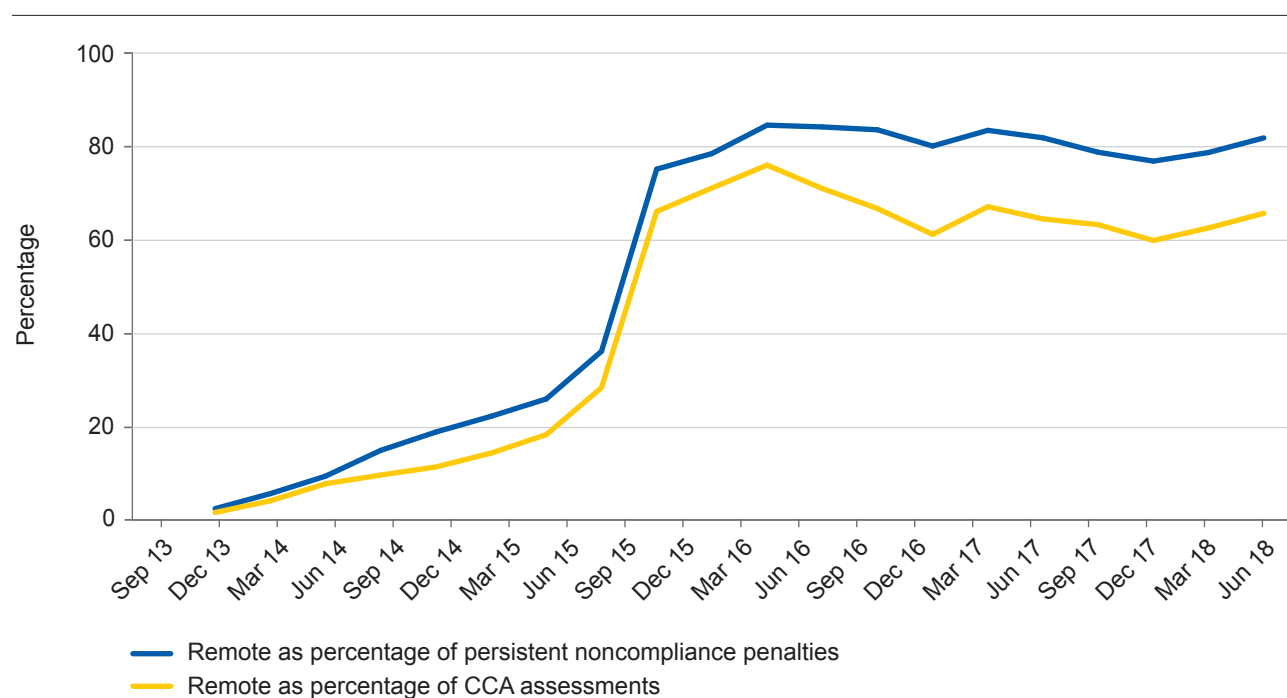
The CCA process had been established to ensure that penalties would be applied only where compliance failures were intentional, reckless or negligent and did not arise from a jobseeker's vulnerability. But despite the disproportionate burden of ill health, disability, psychological distress and poor living conditions experienced by many in remote Indigenous

Figure 6 Comparison of serious penalties applied for persistent noncompliance, quarters ending September 2013 – June 2018



CDP = Community Development Program; JSA = Job Services Australia; RJCP = Remote Jobs and Communities Program
Source: Department of Jobs and Small Business jobseeker compliance data, various dates

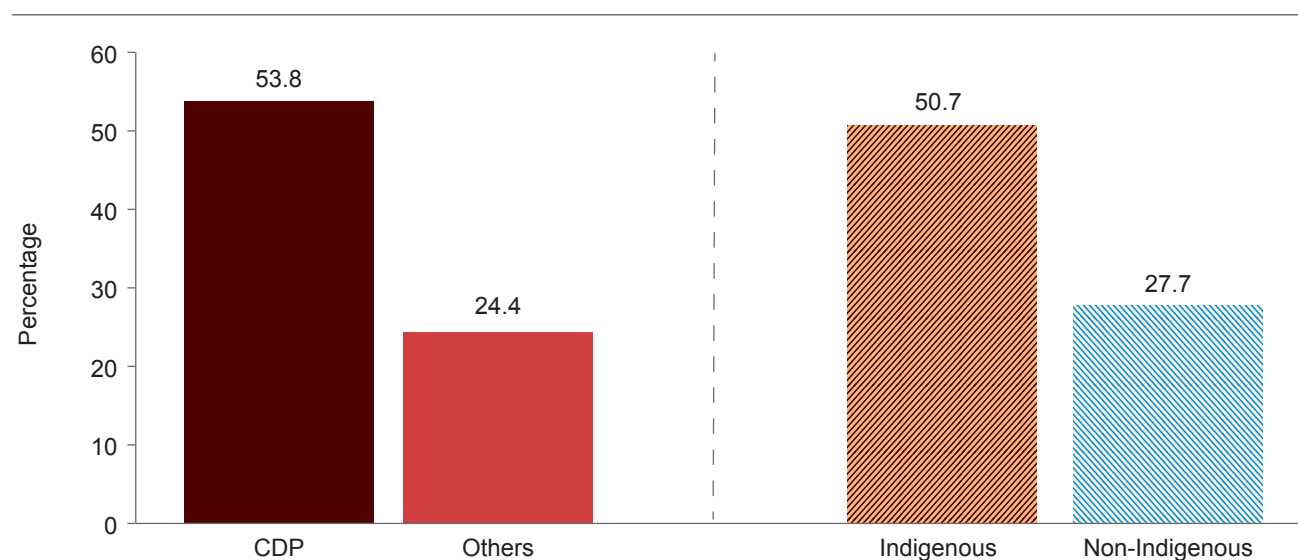
Figure 7 Remote participants as a percentage of Comprehensive Compliance Assessments and adverse outcomes, quarters ending September 2013 – June 2018



CCA = Comprehensive Compliance Assessment

Source: Department of Jobs and Small Business jobseeker compliance data, various dates

Figure 8 Comparison of negative Comprehensive Compliance Assessment outcomes, by program and by Indigenous status, 1 July 2015 – 30 June 2018



CDP = Community Development Program

Source: Department of Jobs and Small Business jobseeker compliance data, various dates

communities, when they conducted CCAs, DHS staff were less likely to identify noncompliance as arising from vulnerabilities in this population than when they assessed other jobseekers. The rate of medical exemptions for unemployed people in CDP areas (5%) was half that of those in nonremote areas (10%), and lower again for Indigenous people in these areas (3%) (PM&C 2018b:26). Penalties were more likely to be applied to those who had been unemployed longer, had poorer English, and lacked access to communications or transport (PM&C 2018b:40). The prediction of the Independent Review Panel that protections for the vulnerable might not help Indigenous people in remote areas appears to have been borne out.

When questioned about the greater frequency of its application of serious penalties to Indigenous people, DHS advised a Senate committee that it applies policy 'in the same way' to all jobseekers and that:

A Comprehensive Compliance Assessment is more likely to find noncompliance to be sustained (i.e. 'persistent') and 'deliberate' where a participant has had previous multiple Comprehensive Compliance Assessments.²³

This suggests that, rather than additional CCAs increasing the likelihood that underlying problems might be uncovered, any earlier failures to identify vulnerabilities were likely to be compounded.

Data provided to a Senate committee in 2017 provided a more detailed picture of the distribution of serious penalties within CDP, including by Indigenous status (Table 2). They showed that, during the first two years of CDP, 15 127 individuals received 'serious penalties', of whom 92.3% were Indigenous (compared with 83% of the caseload identified as Indigenous). Of the 3702

people who received five or more eight-week penalties over the two years, 94.4% were Indigenous.

In its 2018 evaluation, PM&C (2018b:42) reported that:

CDP participants that identify as Indigenous were estimated to be 3.3 times more likely than other [CDP] participants to experience a penalty, and 2.7 times more likely to go on to experience a zero-rate [i.e. serious] penalty. Among those penalised, participants identifying as Indigenous were estimated to have a higher value of total penalties over the year (\$166 higher).

3.5 Remote employment services and the disproportionate application of penalties to Indigenous Australians

In September 2017, around 12% of participants across all employment programs were identified as Indigenous, with around 24% of these (around 27 000 people) in the remote employment program.²⁴ Although Indigenous remote program participants were few in number, the program had a dramatic impact on the rate of penalties applied to Indigenous people nationally, as shown in Figure 9. From the time of implementation of CDP, the number of penalties applied to people identified as Indigenous exceeded those applied to all other working-age income support recipients (Figure 9).

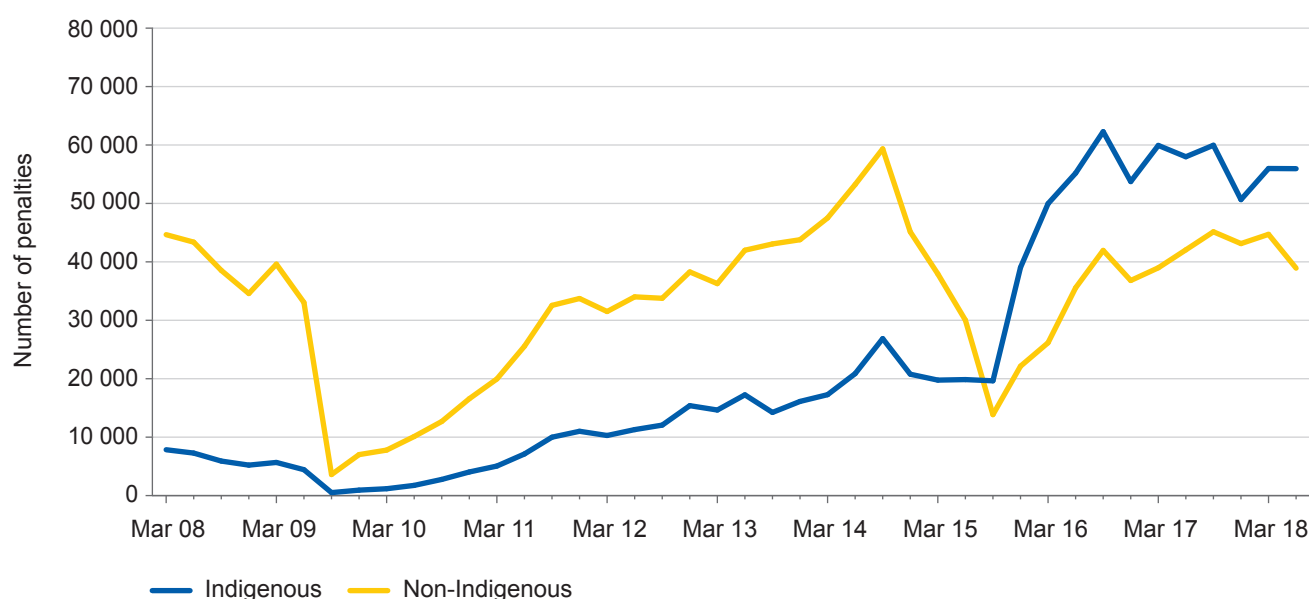
Figure 10 shows that the percentage of serious penalties for 'persistent noncompliance' that were applied to Indigenous people was even higher, rising to more than 70% from June 2015. On the other hand, Indigenous people have consistently received around 12% of the penalties for refusing work or 'voluntary unemployment', broadly in line with Indigenous caseload representation.

Table 2 Number of Community Development Program participants receiving one or more serious (8-week) failures, 1 July 2015 – 30 June 2017

Indigenous status	Number of penalties					Total jobseekers
	1	2	3	4	5+	
Indigenous	4 450	2 788	1 870	1 363	3 493	13 964
Non-Indigenous	498	238	126	92	209	1 163
Total	4 948	3 026	1 996	1 455	3 702	15 127
Indigenous as % of total	89.9%	92.1%	93.7%	93.7%	94.4%	92.3%

Note: Serious failures for work refusal appear to be included in these figures, but their impact on the numbers would be slight because they totalled 364 over the entire period.

Source: Senate Finance and Public Administration Committee Supplementary Budget Estimates 2017–18, question on notice 215

Figure 9 Number of penalties by Indigenous status, quarters ending March 2008 – June 2018

Source: Department of Jobs and Small Business jobseeker compliance data, various dates

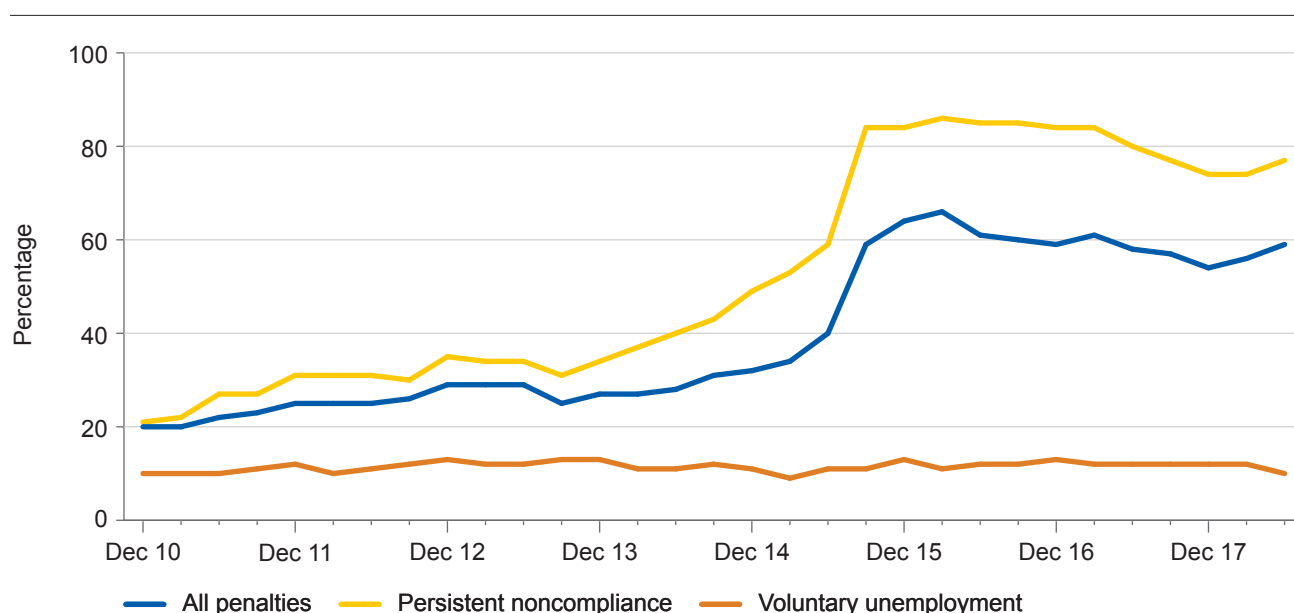
The disproportionate application of income support penalties to Indigenous Australians is not new (Sanders 1999, Eardley et al. 2005, Davidson & Whiteford 2012). The most detailed analysis of this issue was conducted by Sanders in 1999, looking at data from 1997 and 1998 (Sanders 1999). At the time, Sanders found that Indigenous-identified unemployed people were 1.5 to 2 times more likely have been breached than others, and made up a higher proportion of those with multiple breaches²⁵ (Sanders 1999). However, in the Northern Territory, where nearly half of unemployment benefit recipients were identified as Indigenous (compared with 5% or less in other jurisdictions), Sanders found that Indigenous people were penalised *less often* than their non-Indigenous counterparts (Sanders 1999:73). He explained that, in the Northern Territory, social security administrators had ‘a long and proud tradition’ of challenging the appropriateness of centrally developed rules and procedures, and ‘developing non-standard procedures in order to cope with Indigenous servicing issues’ (Sanders 1999:31). They had adopted a practice of applying activity test exemptions to Indigenous remote community residents when they considered the activity test inappropriate.²⁶ This was one of a number of local adaptations made to accommodate the different cultural, social and economic circumstances of Indigenous people, without which, Sanders argued, a much higher rate of penalties would have been applied.

Twenty years on, two things stand out from Sanders’ analysis. The first is that, despite the passage of

time and changes in programs and compliance frameworks, Indigenous people have continued to receive a disproportionate share of income support penalties. The appropriateness of income support and employment assistance arrangements to Indigenous people, particularly those living remotely, remains in doubt. The second is the stark contrast between the response of income support administrators in the late 1990s, when considering how to tailor services to a remote Indigenous caseload, and decisions made more recently about the design of an employment service targeting this group. In each case, Indigenous people in remote communities were the specific target of policy action, and actions were described as addressing their needs. In the earlier case, this tailoring resulted in more secure incomes, albeit with a risk of ‘benign neglect’.²⁷ In contrast, the establishment of separate remote employment services in 2013 has resulted in the application of more onerous obligations, closer surveillance and much higher penalties than would have been experienced had remote Indigenous people remained in the mainstream employment service.

4 Evidence of effects of obligations and penalties

One of the principal arguments for the application and enforcement of income support conditions is that these will lead to desired changes in behaviour

Figure 10 Percentage of penalties applied to Indigenous people, quarters ending December 2010 – June 2018

Note: Pre-December 2010 quarter data excluded because of changed reporting format.

Source: Department of Jobs and Small Business jobseeker compliance data, various dates

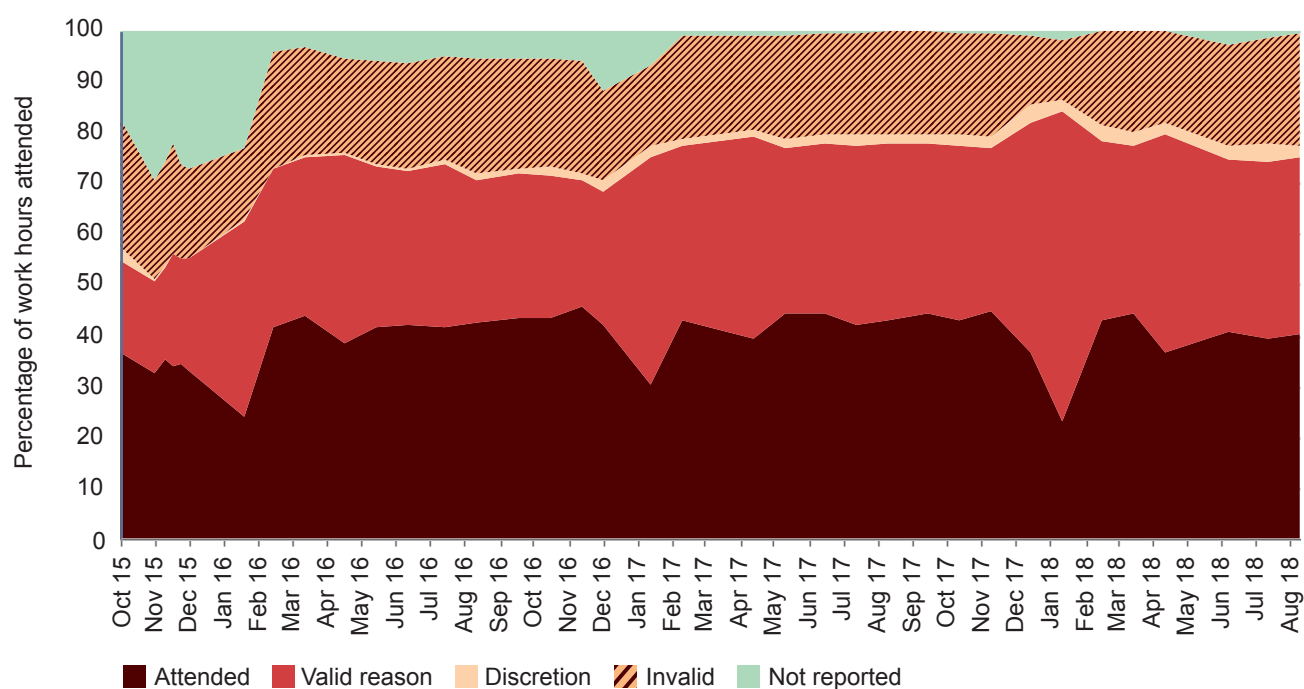
and, in particular, that they will increase jobseekers' orientation to work (Martin 2015). Under RJCP, there was a degree of flexibility in both the setting of obligations and use of penalties, so that these could, in theory at least, be tailored to improve an individual's job prospects. The move to a strict daily Work for the Dole regime from 2015 was an assertion of more direct behavioural control, considered necessary to address the 'social dysfunction' and 'idleness' that were considered by government officials to be widespread across remote Indigenous communities (Forrest 2014, ANAO 2017). The 'program logic' developed by PM&C for CDP proposed a causal link between an environment in which 'strong compliance is enforced consistently' and increased participation, and a change in attitudes so that 'people in remote locations want to work' and, eventually, 'children are going to school, adults are working, communities are safe' (PM&C 2018c).

In September 2017, PM&C told a Senate inquiry that the program was succeeding in bringing about these changes:

Remote job seekers are now standing up and participating, building daily routine and establishing social norms. Many remote job seekers have a renewed sense of pride as they are contributing to their communities. (PM&C 2017a:7)

However, administrative records of attendance in Work for the Dole do not support this claim. Figure 11 shows the percentage of hours of Work for the Dole that were actually attended during the period October 2015 to August 2018, as reported in the PM&C information technology system. Despite the application of high numbers of penalties during this period, actual attendance changed very little, averaging 40% of expected hours and never exceeding 50%.²⁸

At the same time, there was a substantial decline in the number of people participating in remote employment services. On 1 July 2015, there were 36 642 people on the CDP caseload. By 30 June 2018, the caseload had dropped 17% to 30 380. Comparison of the age profile of remote program participants on 26 June 2015 with that on 29 September 2017 suggests that most of the caseload decline (59%) was in the under-25 age group – a net loss of around 2500 participants (Table 3). Another 31% of the decline was in the 25–34-year age group (1314 participants). Government officials argued that this decline might reflect success in moving people into work, but the age profile of those for whom job outcomes were claimed did not support this view. A total of 1311 job outcomes were claimed for those under 25 during the period 1 July 2015 to 30 September 2017 – not enough to account for the loss of 2476 people in this age group from the caseload.²⁹

Figure 11 Reports of Community Development Program hours attended, October 2015 – August 2018

Source: Administrative data supplied to providers by PM&C, various dates

Table 3 Caseload change by age, June 2015 (RJCP) – September 2017 (CDP)

Age group (years)	June 2015	September 2017	Net change
Under 25	9 848	7 372	–2 476
25–34	9 665	8 351	–1 314
35–44	8 066	7 132	–934
45–54	5 890	5 929	+39
55–64	3 279	3 768	+489
65 and over	55	77	+22
Total	36 803	32 629	–4 174

Source: Senate Finance and Public Administration Committee, supplementary estimates, 19–23 October 2015, question on notice reference 143; Senate Finance and Public Administration Committee, additional budget estimates 2017–18, question on notice reference PM133

PM&C's evaluation of the first two years of CDP suggested that much of the caseload decline under CDP could be accounted for by population factors and the withdrawal of volunteers (PM&C 2018b). But it also found evidence of disengagement from income support by those on activity-tested payments at a rate higher than that it had been under RJCP (PM&C 2018b:29). It found that:

Of those participants who were penalised in the first quarter of 2016, an estimated six per cent *disengaged* from the income support system over

the course of the year (to December 2016). Two in five of those *disengaged* participants were men under 30 years old. (PM&C 2018b:vi)

For years, there have been reports that many people in remote communities were not claiming income support for which they were eligible, but there is little evidence about the size and composition of this group or why this has occurred (Markham & Biddle 2018:7). Although this is a long-term issue, it has been made worse by CDP. There are longstanding challenges for remote Indigenous people in accessing or maintaining access

to income support because of the inadequacy and inappropriateness of DHS services (e.g. Commonwealth Ombudsman 2016, Kral 2017, NAAJA 2017), but there is also evidence that some remote Indigenous people are absenting themselves from Work for the Dole because they reject the imposition of obligations under CDP. In 2014–17, a series of interviews were conducted with remote program participants, provider staff and community members as part of a research project looking at the development and implementation of remote employment services.³⁰ In the course of these interviews, participants expressed the view that the program was illegitimate, and a vehicle for control by a white government:

Since European settlement white people have been telling us what to do. They are used to telling Aboriginal people what to do. (CDP participant)

Q: What are the good things about Work for the Dole?

A: Nothing good, work for the dole. That's rubbish work. That hurts so much when people say you are on work for dole. This Government's rules. Government laws. Got to do the job for him. (CDP participant)

Some contrasted the program with the earlier CDEP program in which people worked for their own community:

Our people don't like this. Want to work for real money. If they had real money, then more people would be involved. They come and go [from activities] because its Centrelink...Especially Work for the Dole – it look like they lost a bit of their skins. Because they lost CDEP. It's been a long time now. That's what everyone in the community say. (Indigenous male supervisor)

Although some refused to comply with obligations or withdrew from income support, more often resistance was less overt. Many people prioritised other things over compliance with Work for the Dole rules, returning when the cost of doing so became too great – such as the man who explained that he had been helping his sick wife look after their child, but had to tell her 'you have to do it now' so he could go back to picking up rubbish and 'earn' his income support.³¹

5 A new Targeted Compliance Framework

In early 2018, the Australian Government secured the passage of the *Social Services Legislation Amendment (Welfare Reform) Act 2018*, replacing the 2009 Job Seeker Compliance Framework with a new Targeted Compliance Framework (TCF) from 1 July 2018. When it tabled the proposed legislation in parliament, the government announced that it would exclude CDP participants from the TCF so that it could develop 'a more appropriate model' for remote Australia (PM&C 2017b). Even so, in May 2018, only weeks after the passage of the legislation, the government reversed its position and announced that it intended to apply the new TCF to CDP participants from February 2019 (Scullion 2018).

The TCF introduces a new system of demerit points in place of short penalties. These are applied by providers without DHS involvement. After six demerits have been accrued, jobseekers are referred to DHS for an assessment (similar to a CCA) and, if found to be capable of meeting their obligations, move into the 'penalty zone'. Once in this zone, the first failure attracts a one-week penalty, the second attracts a two-week penalty, and the third results in benefit cancellation with a four-week reapplication preclusion period. These penalties cannot be waived or worked off, and participants remain in the penalty zone, continuing to receive penalties for each compliance failure, until and unless they remain fully compliant for three months. The framework reduces DHS involvement in investigating the first six minor failures, generating significant operational savings. Its stated aim is to 'focus resources and penalties on jobseekers who persistently and wilfully do not meet requirements', while encouraging those who generally meet their requirements to re-engage through use of suspensions (Department of Jobs and Small Business 2018). Jobseekers who are assessed as capable of self-reporting must now do so online, using a smartphone application to track their mandatory job searches and accrued demerit points. According to the government:

This will give jobseekers more complete control over their return to work journey and will help to develop more work-like behaviours. (Department of Jobs and Small Business 2018:5)

However, in December 2018, the peak body representing nonprofit employment services providers wrote to the government to raise concerns about

the way that TCF was affecting sole parents, citing examples of people having been suspended because they did not have a smartphone, or access to data (Henriques-Gomes 2018).

At the time the TCF was being debated, the Australian Government Department of Employment³² estimated that there were around 40 000 people in jobactive who were likely to receive harsher penalties under the TCF. These were participants who had repeatedly missed appointments and had no recorded 'capability issues'.³³ Of this group, 25% were identified as Indigenous, 2.5 times their representation on the caseload. Had CDP participants been included in this estimate, the negative impact on Indigenous people would have been much more pronounced. During 2017, when the TCF was proposed, Indigenous jobseekers in the CDP made up 72% of those who received persistent noncompliance penalties, placing them squarely in the group targeted under the TCF. The Australian Government's exclusion of CDP participants while the TCF was being considered meant that its impact on Indigenous people barely surfaced as an issue. It was not mentioned at all in the report of the Senate committee that inquired into the Bill (SCALC 2017).

The TCF widens the gap in treatment of those who take 'personal responsibility' for compliance and those who are assessed as 'wilfully and persistently noncompliant'. Surveillance of the former is becoming increasingly automated, with jobseekers expected to report on their own compliance. The shrinking resources of an increasingly punitive DHS bureaucracy are being concentrated on those considered recalcitrant.

In August 2018, Minister Scullion tabled a Bill that would apply the TCF to CDP participants, attracting widespread opposition from providers and the wider Indigenous sector (SCALC 2018). The minister explained that, under the legislation, the number of penalties would decrease and that 'without this legislation, CDP participants will continue to be subject to a different compliance model than the rest of Australia'.³⁴ But the modelling of the TCF that he later tabled in the Senate showed that, by the second year of its implementation, the TCF would mean many more days lost in income support penalties, and nearly 8000 instances of cancellation of benefits (Fowkes 2018ab).

6 Conclusion

Since the decision to establish a separate remote employment service in 2012, decisions about its design have been justified on the basis of a need to respond to the unique circumstances of remote Australia, and, in particular, the needs of remote Indigenous communities. In the past, attention to the particular needs and circumstances of remote Indigenous Australians gave rise to system adaptations such as CDEP and RAEs. These adaptations operated at the margins of the welfare system, making it more 'workable' in remote settings, while leaving intact its core structures and assumptions – such as the obligation to work. Over the past 30 years, however, successive governments have sought to bring more groups into the labour market, while applying pressure on them to take up increasingly precarious and low-paid work. Employment assistance, including both the benefits system and labour market programs:

... are constructed to provide the poor with an experience of market incentives and logics and to teach self-discipline to workers who are expected to adapt to their plight on the lower rungs of the labor market. (Schram et al. 2010:745)

One of the ways in which this disciplinary project unfolds is through the identification of different groups of people as more or less capable of self-discipline – of quickly sorting those who can be expected to find employment from those who need closer direction to learn how to work (Dean 2002, McDonald et al. 2003). This sorting can be seen within the structure of mainstream employment services – in the assignment of only longer-term unemployed people to Work for the Dole, in new arrangements for the 'job ready' to manage their own compliance through online reporting, and in increased penalties for those who are found to be 'persistently noncompliant'. Within remote employment services, there is less internal sorting. All participants are treated as 'risky'. Surveillance is broadly and intensively applied. The resurgence in paternalist approaches to those 'hardest to help' in the wider welfare system has coincided, in remote areas, with the renewed dominance of paternalism in Indigenous affairs.

The effects of more onerous conditions and increasingly intensive surveillance have been an extraordinary increase in income support penalties and increased disengagement of Indigenous people from the system. The adverse effects on Indigenous people are so evident, and so extreme, that it appears that the

program will not survive in its current form. In January 2019, Minister Scullion announced that, while the TCF will be applied to remote participants, changes to Work for the Dole arrangements will act to reduce penalties (Scullion 2019).³⁵ The Labor opposition has announced that, should it win office, it will abolish CDP altogether, replacing it with a new scheme. These measures will not, on their own, resolve the underlying dilemmas in providing income support and labour market assistance in remote communities. Years of underinvestment in remote education, health, housing and other services will continue to disadvantage those who try to obtain support. More fundamentally, Australia's welfare system is structured around the central importance of undertaking paid work and the civic duty to do so. To the extent that this objective remains elusive for, or that it may not be shared by, Indigenous people, our welfare institutions will continue to marginalise and exclude many Indigenous Australians.

Appendix

Table A Source of CDP participant obligations and penalties

	Social security legislation (Job Seeker Compliance Framework)	CDP funding deed and guidelines
Obligations	Describes which categories of payment are subject to an activity test	Describes what activities must be put into individual job plans (e.g. monthly appointments, Work for Dole, job search) for different groups in the program to satisfy the activity test
	Says that work capacity must be taken into account	Attaches specific obligations to different levels of capacity (e.g. number of hours for those with reduced work capacity)
	Places upper limit on hours that unemployed can be required to participate (25 hours per week) and limits the type of mandatory activity (e.g. cannot be required to undergo medical treatment)	Describes how many hours different people in the CDP scheme must participate in Work for the Dole (within legislated limit) and what choice of activities they will have
	Describes under what circumstances participants can or must be exempted from activity test (e.g. cultural activity)	Sets requirements for daily (Monday to Friday) Work for the Dole and number of weeks each year to be worked
	Defines 'reasonable excuse' for nonattendance (in regulations)	Not applicable
Penalties	Sets circumstances in which people may be penalised, and rate of penalty	Requires providers to report daily on attendance in the IT system; links payment to recommending penalties for nonattendance
	Sets out appeal rights	Not applicable
Payments	Establishes income support payment rates and frequency (normally fortnightly, but can be weekly)	Not applicable

CDP = Community Development Program; IT = information technology

Notes

1. Identified in DHS systems. Income support applicants are asked to self-identify voluntarily when they apply.
2. Work for the Dole is a mandatory period of 'work' under supervision for a fixed period of hours. In nonremote areas the work must be in a nonprofit organisation, but, since 2015, those in remote areas can be required to work in private sector organisations and in jobs ordinarily done by paid workers.
3. Often referred to as Centrelink.
4. Although the Department of Jobs and Small Business has primary responsibility for policy in relation to compliance, PM&C is the policy agency for remote employment services (ANAO 2017:18–19).
5. Key changes from JSA to jobactive included an increase in the expected number of job searches, reduced emphasis on training and education, and increased weighting of fees attached to employment outcomes as opposed to service provision.
6. These included amendments in the CDP Bill 2015, tabled in December 2015 which lapsed because of lack of support, and proposals put forward in a 2017 discussion paper (PM&C 2017c).
7. Suspensions have not been included in this analysis.
8. <http://guides.dss.gov.au/guide-social-security-law/3/1/13/70>, accessed 10 October 2018.
9. Published by the Department of Jobs and Small Business at <https://www.jobs.gov.au/job-seeker-compliance-data>.
10. Senate Finance and Public Administration Legislation Committee, additional budget estimates 2017–18, answer to question on notice reference PM133. Caseload at 29 September 2017.
11. Department of Jobs and Small Business, jobactive caseload by selected cohorts time series, available at <http://lmip.gov.au/default.aspx?LMIP/Downloads/EmploymentRegion>, downloaded 8 October 2018. Caseload at 30 September 2017.
12. In remote areas, people with disabilities were referred to CDP. Department of Jobs and Small Business, Disability Employment Services monthly data, available at <http://lmip.gov.au/default.aspx?LMIP/Downloads/DisabilityEmploymentServicesData/MonthlyData>. Caseload at 30 September 2017.
13. Refer to Davidson and Whiteford (2012) for historical penalties data.
14. The change from RJCP to CDP was given effect through amendments to the RJCP funding deed. In most cases, existing providers accepted the amendments and continued to deliver the program.
15. Senate Standing Committee on Education and Employment, budget estimates 2017–18, question on notice reference EMSQ17-004072.
16. From 1 July 2015 providers could, in addition to triggering a payment suspension, recommend that a financial penalty be applied where an appointment had not been attended.
17. Senate Standing Committee on Education and Employment, additional budget estimates 2016–17, question on notice reference EMSQ17-001953.
18. Senate Standing Committee on Education and Employment, supplementary budget estimates 2017–18, question on notice reference EMSQ17-004468.
19. Senate Finance and Public Administration Legislation Committee, additional budget estimates 2017–18, question on notice reference PM133.
20. Senate Standing Committee on Education and Employment, budget estimates 2017–18, question on notice reference EMSQ17-004084.
21. Estimate based on 75% of the Australian National Audit Office estimate of CDP caseload for 2016–17 (ANAO 2017:41).
22. Senate Finance and Public Administration Committee, additional budget estimates 2016–17, question on notice reference PM99.
23. Senate Community Affairs Legislation Committee, budget estimates 2018–19, question on notice reference HS65 SQ18-000128.

24. Senate Finance and Public Administration Legislation Committee, additional budget estimates 2017–18, question on notice reference PM133 (caseload at 29 September 2017); jobactive caseload by selected cohorts time series data (caseload at 30 September 2017); Disability Employment Services cohort data (31 December 2017).
25. A breach refers to a finding that the jobseeker has failed to meet their obligations. Sanders notes that not all breaches resulted in the application of penalties, as the original decision maker was able to overturn the breach, and often did so (Sanders 1999:6).
26. In applying these exemptions, the legislation allowed officials to take into account the location of offices, 'difficulties with transport and communication and the educational and cultural background of the person' (Sanders 1999:31)
27. Sanders notes that the use of RAEs in the Northern Territory risked neglect of those who might have some employment prospects (Sanders 1999:118).
28. PM&C's evaluation of CDP reports that from January 2016 to July 2017 'the proportion who attended (including partial attendance) fluctuated between 40 and 50 per cent' (PM&C 2018b:19).
29. Senate Finance and Public Administration Committee, additional budget estimates 2017–18, question on notice reference PM134. Note that, in any event, it would normally be expected that many of those who left the caseload for education or employment would be replaced by people entering or re-entering the workforce,
30. This project, led by Dr Will Sanders and funded by the Australian Research Council and Jobs Australia, started in 2013 (Linkage Project No. 130100226).
31. Similar findings are reported in the report commissioned by PM&C and released in February 2019 (see PM&C 2018c).
32. Now called Department of Jobs and Small Business.
33. Senate Standing Committee on Education and Employment, budget estimates 2017–18, question on notice reference EMSQ17-004270.
34. Second reading speech, Social Security Legislation Amendment (Community Development Program) Bill 2018 (the CDP Bill), 18 October 2018.
35. The measures include reduction of weekly Work for the Dole hours from 25 to 20, increased flexibility in scheduling and a change to the funding model to remove the incentive to penalise. They are due to take effect on 1 March 2019.

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